



3639

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/845,539
	Filing Date	April 30, 2001
	First Named Inventor	David P. Vellante
	Art Unit	3639
	Examiner Name	Fadey S. Jabr
	Attorney Docket Number	ITC 2-001
Total Number of Pages in This Submission	3	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Response to Restriction Requirement		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Mueller and Smith, LPA		
Signature	<i>Diane E. Burke</i>		
Printed name	Diane E. Burke		
Date	October 24, 2005	Reg. No.	45,725

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of : David P. Vellante, et al.
Serial No. : 09/845,539
Filed: : April 30, 2001
For: : Method and System for Assessing and Quantifying the
Business value of an Information Technology (IT)
Application or Set of Applications
TC/AU : 3639
Examiner : Fadey S. Jabr
Attorney Docket No. : ITC 2-001

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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This is a response to the October 17, 2005 Office Action containing a restriction requirement.

It is noted that the restriction has been called for with respect to two inventions identified as Inventions I and II. Invention I includes claims 1-14 and 29-49, while Invention II includes claims 15-28. Applicant provisionally elects, with traverse, Invention I including claims 1-14 and 29-49.

Section 121 of the Patent Statute authorizes a requirement for restriction only when two or more independent and distinct inventions are claimed in one application. The two inventions identified above clearly are dependent in that each is related to the other in operation or effect. The Statute requires both independence and distinctness, not either, and provides such requirement in definite terms. The construction adopted by the Manual of Patent Examining Procedure assumes that the Statute authorizes restriction between inventions which are not independent and distinct, but which are either independent or distinct. It is Applicant's position that the plain meaning of the Statute defies such construction. For this reason, Applicant requests that the restriction requirement be withdrawn so that the claims in controversy may be prosecuted as a single invention.

Appln. No. 09/845,539
Response dated October 24, 2005
Reply to Office Action of October 17, 2005

Respectfully submitted,

Date: October 24, 2005

Diane E. Burke

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited on October 24, 2005 with the United States Postal Service as first class mail in an envelope addressed to:

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